



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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APR 09 2012

Ref: 8EPR-N

David Herron, Project Leader
Roosevelt-Duchesne Ranger District Office
Ashley National Forest
85 West Main, P.O Box 981
Duchesne, Utah 84021

Re: Ashley National Forest South Unit Oil and
Gas Development Project Final
Environmental Impact Statement and
Record of Decision; CEQ # 20120042

Dear Mr. Herron:

The U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the Final Environmental Impact Statement (EIS) and Record of Decision (ROD) for the South Unit Oil and Gas Development Project on the Ashley National Forest, prepared by the U.S. Department of Agriculture Forest Service (Forest Service). Our comments are provided for your consideration pursuant to our responsibilities and authority under Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4332(2)(C), and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609.

Project Background and General Comments

The South Unit Final EIS addresses issues and potential environmental impacts associated with a Master Development Plan submitted by Berry Petroleum Company (Operator) for oil and gas development on federal mineral leases held by the Operator on the South Unit of the Ashley National Forest in Utah. The ROD selects Alternative 4 from the Final EIS, with modifications. The Selected Alternative allows drilling of up to 356 new oil and gas wells from a maximum of 162 well pads. Ancillary facilities include 57 miles of new access road, 87 miles of new natural gas gathering pipelines, and four compressor stations totaling 10,000 horsepower of additional compression. Total allowable surface disturbance in the 25,900 acre project area includes 836 acres of short-term disturbance and 411 acres of long-term surface disturbance, after successful interim reclamation. Implementation of the Selected Alternative is phased over three geographical areas, with Phase A to be implemented immediately while Phases B and C will require subsequent approval.

EPA appreciates that many of our issues and concerns on the Draft EIS were responded to in Appendix E of the Final EIS, and that content was updated in the appropriate EIS chapters. In follow-up to our

Draft EIS letter of April 26, 2010, our remaining concerns relate to air quality, produced water disposal, protection of water resources, and permitting authorities and are provided in the comments below.

Air Quality

1) Ozone Analysis and Mitigation

The EPA continues to question the value of including the findings of the Uinta Basin Air Quality Study (UBAQS) in the EIS, due to the shortcomings of this study acknowledged in the Final EIS. For future NEPA analyses for oil and gas projects, we recommend that the Forest Service utilize the stakeholder coordination process described in the "Memorandum of Understanding Among the U.S. Department of Agriculture, U.S. Department of the Interior, and U.S. Environmental Protection Agency, Regarding Air Quality Analyses and Mitigation for Federal Oil and Gas Decisions Through the National Environmental Policy Act Process" to determine an appropriate analysis method for disclosing air quality impacts.

Since release of the Draft EIS, the BLM in Utah has developed an Air Resource Management Strategy (ARMS). The BLM's ARMS, conducted in collaboration with other federal and non-federal stakeholders, will improve knowledge of air resource conditions in the Uinta Basin through increased ambient air quality monitoring and by conducting a regional scale photochemical grid model. Due to increased air monitoring data and an improved air quality modeling protocol vetted through the ARMS stakeholders, we expect that the ARMS model will provide a substantial improvement over the UBAQS model in its ability to examine the cumulative and project-specific direct and indirect air quality impacts of planned and reasonably foreseeable development in the Uinta Basin. We therefore recommend the following two actions for implementation of the South Unit Project:

1. That the ambient ozone data collected at the Operator-installed ozone monitoring site also be provided to the BLM for use in the ARMS; and
2. That new information regarding air quality in the Uinta Basin obtained through the ARMS modeling be considered during the Forest Service's approval of Phases B and C, and that additional air quality mitigation measures be applied to those phases if warranted by the modeling analysis.

2) Mitigation to Reduce Projected Near-field and Far-field Impacts

Modeled 24-hour PM_{2.5} concentrations associated with construction emissions are projected to nearly reach or exceed the 24-hour PM_{2.5} NAAQS for the two modeling scenarios discussed in the Final EIS. Additionally, the EPA remains concerned with projected impacts to air quality related values (AQRV) including nitrogen deposition and visibility impacts, as discussed in our Draft EIS comment letter (April 2010). In light of the projected impacts to PM_{2.5} and AQRVs we suggest that further emission reductions be sought for PM_{2.5} as well as NO_x, which is a visibility degrading pollutant. Reductions of NO_x, which is an ozone precursor, will additionally reduce the possibility for the Project to affect regional ozone. We recommend the following:

1. The ROD requires use of drill rigs that meet the EPA Tier II emission standards or better for the life of the project. We suggest requiring lower emitting drill rigs in the approval of future development phases, which would reduce PM_{2.5} and NO_x.
2. With regard to mitigation applicable to natural gas compression, it is unclear what level of control is required by the mitigation measures listed in the ROD. It is our hope that installation of

secondary control systems on continuously operating stationary sources would effectively result in emission rates equivalent to the Four-Corners Task Force recommendations of 2 g/bhp-hr for engines less than or equal to 300 hp and 1 g/bhp-hr for engines greater than 300 hp. For future development phases, please specify the allowable level of emission control.

3. While the ROD includes a mitigation measure to reduce fugitive dust, it does not specify a minimum level of control. We note that dust control was modeled at 50% for the project, and therefore recommend that a minimum level of control be stipulated at 50% or better. For example, a requirement to water roads twice a day is typically able to achieve 50% dust control.

Disposal of Produced Water

Approximately 70% of all produced water will be recycled or reused, thereby greatly reducing potential environmental impacts of disposal of the produced water. Based on information presented in the Final EIS, including Appendix A, it appears that the remaining 30% of the produced water is likely to be disposed of in existing evaporation pond facilities. The EPA recommends avoiding disposal in evaporation ponds, if possible, through additional reuse/recycling or underground injection, in order to reduce evaporative emissions of air quality pollutants or the potential for leaks to impact surface or ground water quality. If evaporation ponds are used for produced water disposal, the EPA recommends that emission control technologies be used to minimize emissions of volatile organic compounds and hazardous air pollutants from the ponds. We request that the Forest Service encourage the Operator to reduce potential emissions from produced water, and that future EISs for oil and gas projects consider the magnitude of such emissions and means to avoid or control those emissions.

Protection of Water Resources

Many improvements have been made in the Final EIS regarding disclosure of groundwater resources present in the project area and the procedures through which those resources will be protected during drilling and production. For example, the Forest Service's requirement that closed-loop drilling be used to eliminate the need for reserve pits is a particularly valuable protection for both groundwater and surface water resources. Quarterly monitoring of Sowers Creek for phenols, boron, nutrients, and sediment-related indicators to assess the potential impact of the project on water quality will also help to prevent adverse impacts to surface water quality.

The EPA continues to recommend that water quality monitoring in the project area be expanded to detect and prevent impacts to both groundwater and surface water resources, from a range of potential pollutant sources. This is particularly important in the case of surface water resources, since oil and gas operations have been identified as contributing to existing water quality impairments. We recommend that the Forest Service ask the Operator to develop a monitoring plan for the South Unit Project, using the "Long-Term Plan for Monitoring of Water Resources" developed for the Gasco Energy Inc. Uinta Basin Natural Gas Development Project Final EIS as a guide. Particularly critical components of the plan include baseline monitoring, inclusion of organic parameters in the monitoring suite, public disclosure of monitoring data, and discussion of mitigation measures to be employed if monitoring results in identification of impacts. The South Unit ROD does not indicate when monitoring of Sowers Creek would be implemented. The EPA recommends that monitoring be conducted during all project phases, including: background conditions before construction begins; during project implementation, including construction, production, and produced water disposal; and after project termination.

EPA's Permitting Authorities

As we stated in our comments on the Draft EIS, it appears that the general project location is largely or entirely on National Forest lands within the Uintah Valley part of the Uintah and Ouray Indian (U&O) Reservation, and therefore in Indian country according to applicable case law. EPA has not approved the State of Utah or the Ute Indian Tribe to implement federal environmental programs in Indian country. Thus, for all locations on Indian country lands within the U&O Reservation, EPA is the appropriate governmental authority to issue federal environmental permits, conduct inspections, take enforcement actions, and take any other actions pursuant to our statutes and authorities. The Final EIS does not appear to acknowledge the EPA's permitting authorities within the South Unit project area. For example, the Utah storm water permitting process is inaccurately referenced in the Water Resources section of the document. Please ensure that the Operator is aware of the EPA's authority with regard to federal environmental programs in the project area. For future NEPA analyses for projects in Indian country, please identify the appropriate permitting agencies consistent with Indian country status.

If you have any questions or would like to discuss our comments, please contact me at (303) 312-6925. You may also contact Molly Vaughan, lead reviewer for this project, at (303) 312-6577 or by email at vaughan.molly@epa.gov.

Sincerely,



Suzanne J. Bohan
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation

